

Message Text

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ACTION EUR-12

INFO OCT-01 IO-10 ISO-00 L-02 SS-15 DODE-00 ACDA-05 CEQ-01

CIAE-00 DOTE-00 EPA-01 HEW-02 HUD-01 INR-07 INT-05

NSAE-00 NSC-05 NSF-01 OIC-02 PA-01 PM-03 PRS-01

SAJ-01 OES-03 SP-02 TRSE-00 USIA-06 FEA-01 /088 W
----- 061413

R 261745Z FEB 75

FM USMISSION GENEVA
TO SECSTATE WASHDC 999
INFO AMEMBASSY BONN
AMEMBASSY BUCHAREST
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION NATO

C O N F I D E N T I A L SECTION 1 OF 2 GENEVA 1324

E.O. 11652: GDS

TAGS: CSCE, PFOR, XG

SUBJECT: CSCE POLICY: QUADRIpartite RIGHTS ISSUE

REF: A) GENEVA 1020; B) STATE 41783

1. SUMMARY: AT THEIR INVITATION, WE MET WITH NEUTRALS TO EXPLAIN THE GENERAL RATIONALE FOR OUR SUPPORT FOR QUADRIpartite RIGHTS AND RESPONSIBILITIES (QRR) TEXT TABLED BY FRENCH LAST DECEMBER. NEUTRALS SHOWED UNDERSTANDING FOR OUR POSITION BUT INSISTED THAT MODIFIED LANGUAGE, OR AN ALTOGETHER DIFFERENT APPROACH, SHOULD BE PURSUED TO AVOID APPEARANCE OF ENDORSING BREZHNEV DOCTRINE AND CONCEPT THAT SOME STATES HAD SPECIAL RIGHTS THAT MIGHT ABRIDGE SOVEREIGNTY OF OTHERS. YUGOSLAV, SWISS, CYPRIOT AND SWEDISH REPS WERE MOST OUT-SPOKEN. SWISS AND SOME OTHERS WERE ANXIOUS TO BEGIN NEGOTIATIONS ON MATTER IN SMALL GROUP WITH ONE OR MORE
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OF QUADRIpartite DELEGATIONS. ALL BUT SWEDES AGREED

THAT SENSITIVITY OF MATTER IS SUCH THAT IT IS BEST SETTLED IN CAMERA AND WITHOUT FORMAL DEBATE IN CSCE SUBCOMMITTEE. HOWEVER, SWISS REP SAID THAT, EVEN IF MATTER WERE LEFT UNRESOLVED UNTIL VERY END OF STAGE II NEGOTIATIONS, SWISS WOULD BLOCK CONSENSUS OVER THIS ISSUE AND MAKE PUBLIC STATEMENT EXPLAINING REASONS FOR THEIR ACTION. SEVERAL OTHERS CONCURRED. IN SUBSEQUENT LUNCH OF BONN GROUP DELEGATIONS, FRENCH REP SAID HIS INSTRUCTIONS WERE TO HOLD TO EXISTING QRR TEXT; US INDICATED PER REF B THAT WE ARE NOT PREPARED AT THIS TIME TO AGREE TO ANY TEXTUAL AMENDMENTS; UK SAID LONDON WAS PREPARED TO DROP "RESPONSIBILITIES", "OBLIGATIONS", OR "WHICH CONCERN THEM"; AND FRG REP INDICATED BONN WAS FLEXIBLE AND PREPARED TO ACCEPT WHATEVER LANGUAGE OTHER THREE WESTERN POWERS FELT COMFORTABLE WITH. ALL WERE PREPARED TO PLACE TEXT EITHER IN 10TH PRINCIPLE OR IN FINAL CLAUSES OF DECLARATION. IT WAS AGREED THAT FRENCH DEL WOULD CONVEY THIS TO SOVIETS, AND PERHAPS THEREAFTER TO NEUTRALS. CONCLUDING PARAS THIS MESSAGE CONTAIN DELEGATION RECOMMENDATIONS ON COURSE WE SHOULD PURSUE. REQUEST GUIDANCE; END SUMMARY.

2. DURING MEETING WITH HEADS OF NEUTRAL AND NONALIGNED DELEGATIONS, AT THEIR REQUEST, MORNING OF FEBRUARY 25, WE SAID THAT QRR TEXT IS ESSENTIAL FOR US, GIVEN LIKELY EVOLUTION OF PASSAGES IN PRINCIPLES DECLARATION AND RELATED TEXTS ON NON-USE OF FORCE. WE SAID, ON PERSONAL BASIS, THAT IF IT WERE POSSIBLE TO OBTAIN REFERENCES TO UN CHARTER IN THESE TEXTS, WASHINGTON MIGHT TAKE A DIFFERENT VIEW OF THE QRR DISCLAIMER. HOWEVER THIS QUESTION IS HYPOTHETICAL, GIVEN OPPOSITION OF A NUMBER OF COUNTRIES TO UN CHARTER REFERENCE IN RELEVANT OPERATIVE PARAGRAPHS. THUS IT SEEMS LIKELY THAT CSCE TEXTS WILL NOT EXPRESSLY PROTECT THE PERMISSIBLE AND LEGITIMATE USES OF FORCE. THIS MAKES QRR DISCLAIMER ESSENTIAL.

3. WE THEN EXPLAINED IN SOME DETAIL WHY WE NEED QRR TEXT AND WHY VARIOUS ALTERNATIVE APPROACHES SUGGESTED BY NEUTRALS (GENEVA 740) WILL BE INADEQUATE FOR OUR CONFIDENTIAL

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PURPOSES (COMPLETE MEMCON WILL BE POUCHED FOR EUR/RPM, EUR/CE AND L/EUR). WE ALSO EXPLAINED, IN RESPONSE TO QUESTIONS, SIGNIFICANCE OF WORD "ARRANGEMENTS" IN QRR CONTEXT AND NEED TO INCLUDE IT IN TEXT, AS WELL AS REASON WHY "RIGHTS" CANNOT BE RELATED EXCLUSIVELY TO THOSE DERIVED FROM TREATIES AND AGREEMENTS. FINALLY, WE SAID THAT NEUTRAL SUGGESTIONS FOR A SEPARATE QUADRIPARTITE DISCLAIMER, OR A DISCLAIMER EMBODIED IN CSCE

TEXT BUT MAKING AN EXPLICIT REFERENCE TO GERMANY, WERE UNACCEPTABLE TO BONN. GIVEN THE SENSITIVITY OF THE ISSUE IN THE FRG, AND THE IMPORTANCE OF US-FRG RELATIONS, WHAT IS UNACCEPTABLE TO BONN IN THIS REGARD IS ALSO UNACCEPTABLE TO US.

4. RESPONDING TO ARGUMENTS IN NEUTRAL PRESENTATION TO FRENCH AMBASSADOR (GENEVA 740) THAT REFERENCE TO TREATIES AND AGREEMENTS IN "CONFORMITY WITH INTERNATIONAL LAW" IS SUPERFLOUS SINCE ANY TREATY OR AGREEMENT IS, BY DEFINITION, IN CONFORMITY WITH INTERNATIONAL LAW, WE CALLED ATTENTION TO ARTICLES 53 AND 64 OF VIENNA CONVENTION ON THE LAW OF TREATIES WHICH STIPULATES THAT TREATIES ARE VOID IF THEY CONFLICT WITH PEREMPTORY NORMS OF GENERAL INTERNATIONAL LAW. IT SHOULD BE IN INTEREST OF NEUTRAL AND NONALIGNED TO PRESERVE CONCEPT OF PEREMPTORY NORMS. THE QUALIFICATION "IN CONFORMITY WITH INTERNATIONAL LAW", WE SAID, SHOULD ASSUAGE CONCERNS EXPRESSED BY MANY WITH RESPECT TO "TREATIES, AGREEMENTS OR ARRANGEMENTS ... WHICH CONCERN THEM". INCLUSION OF THAT QUALIFICATION SHOULD MAKE IT CLEAR THAT QRR TEXT DOES NOT ENDORSE TREATIES, ARRANGEMENTS, ETC. BASED ON SPECIAL OR LIMITED CONCEPTS OF INTERNATIONAL LAW. (COMMENT: THIS ARGUMENT WAS DESIGNED TO MEET NEUTRAL POINT THAT QRR TEXT ENDORSES BREZHNEV DOCTRINE. IT MAY HAVE SOME PERSUASIVE EFFECT WITH RESPECT TO TREATIES, ETC. "WHICH CONCERN THEM". HOWEVER, NEUTRALS AND OTHERS ARE ALSO BOTHERED. BY BREZHNEV DOCTRINE CONNOTATIONS OF "OBLIGATIONS" AND "RESPONSIBILITIES". LINK IN TEXT BETWEEN THOSE WORDS, ON THE ONE HAND, AND THE PHRASE "IN CONFORMITY WITH INTERNATIONAL LAW", ON THE OTHER, IS PROBABLY TOO TENUOUS TO MAKE A VERY CONVINCING CASE

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THAT THE OBLIGATIONS AND RESPONSIBILITIES REFERRED TO ARE LIMITED TO THOSE IN CONFORMITY WITH INTERNATIONAL LAW. END COMMENT.)

5. SEVERAL NEUTRAL REPS, IN RESPONSE TO OUR PRESENTATION, COMPLAINED THAT "ANOTHER DELEGATION" HAD GIVEN A MUCH MORE GENERAL INTERPRETATION TO THE QRR TEXT. COMMENT: THIS REFERS TO SOVIET AMBASSADOR MENDELVICH'S ATTEMPT TO STRESS GENERAL APPLICABILITY OF QRR LANGUAGE AND TO DOWNPLAY ITS SPECIFICALLY GERMAN ASPECT. FOR EXAMPLE, MENDELEVICH TOLD NEUTRALS THAT WORD "RESPONSIBILITIES" COULD REFER ALSO TO SPECIAL RESPONSIBILITIES OF MEMBERS OF THE UN SECURITY COUNCIL (AN ARGUMENT THAT PERSUADES NOBODY) OR TO CHAPTER 8 OF THE CHARTER ON REGIONAL ARRANGEMENTS (AN ARGUMENT THAT

ONLY CONFIRMS THE DARKEST SUSPICIONS OF THE NEUTRALS, WHO READ IT AS A SOVIET ADMISSION THAT RESPONSIBILITIES AND OBLIGATIONS RELATE TO THE BREZHNEV DOCTRINE). SOME NEUTRALS SAY PRIVATELY THAT MENDELVICH'S PRESENTATIONS WAS SO UNCHARACTERISTICALLY GAUCHE THAT THEY SUSPECT SOVIETS SECRETLY WISH TO TORPEDO QRR LANGUAGE. WE DOUBT THIS INTERPRETATION. RATHER, WE THINK MENDELVICH WAS TRYING TO GET ACROSS THE POINT THAT THE QRR TEXT, IN SOVIET VIEW, IS MEANT TO COVER THE SITUATION IN THE SOCIALIST CAMP (AS WELL AS GERMAN QUESTION) AND THEREFORE SHOULD NOT BOTHER THE NEUTRALS. IN ANY EVENT, HIS ARGUMENTS WERE SO CLUMSY THAT THEY HAVE COMPOUNDED OUR DIFFICULTIES IN PERSUADING NEUTRALS AND OTHERS OF THE INNOCENCE OF THE QRR LANGUAGE. END COMMENT.

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SAJ-01 OES-03 SP-02 TRSE-00 USIA-06 FEA-01 /088 W

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R 261745Z FEB 75

FM USMISSION GENEVA
TO SECSTATE WASHDC 1000
INFO AMEMBASSY BONN
AMEMBASSY BUCHAREST
AMEMBASSY LONDON
AMEMBASSY MOSCOW
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C O N F I D E N T I A L SECTION 2 OF 2 GENEVA 1324

6. AFTER AN HOUR-LONG EXCHANGE ON GENERAL CONCEPTS UNDERLYING QRR DISCLAIMER AND ON TEXTUAL SPECIFICS, CONVERSATION TURNED TO PROBLEM OF HOW TO DEAL PROCEDURALLY WITH THE ISSUE. SWISS REP (BRUNNER) SAID IT

WOULD BE NECESSARY TO BEGIN SOON TO NEGOTIATE ON LANGUAGE, AND HE HOPED ONE OR MORE OF THE QUADRIpartite DELEGATIONS COULD BE EMPOWERED TO DEAL WITH A RESTRICTED GROUP OF OTHER INTERESTED COUNTRIES IN EFFORT TO WORK OUT TEXT THAT WOULD MEET LEGITIMATE CONCERNS OF ALL. HE SAID THAT, IF QUADRIpartite TACTIC WAS TO LEAVE THIS ISSUE HANGING UNTIL VERY END OF STAGE II IN HOPES OF RESOLVING IT THEN UNDER PRESSURE OF TIME, GAMBIT WOULD FAIL. SWISS WOULD BLOCK CONSENSUS AND ISSUE PUBLIC STATEMENT EXPLAINING BASIS OF THEIR ACTION. SWEDES SAID THEY WOULD DO THE SAME.

7. BRUNNER CONTINUED THAT HIS DELEGATION FELT IT BEST TO RESOLVE ISSUE QUIETLY AND WITHOUT A GENERAL CONFIDENTIAL

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DEBATE IN FULL CSCE SUBCOMMITTEE. SWEDISH REP (EDELSTAM) DISAGREED, SAYING ISSUE WAS IMPORTANT TO ALL DELEGATIONS AND SHOULD BE DEBATED OPENLY AND THOROUGHLY. WE DEMURRED, POINTING OUT THAT DISCUSSION IN FULL SUBCOMMITTEE WOULD INEVITABLY TAKE A FORMAL TURN AND PRODUCE A FRUITLESS AND CONTENTIOUS DEBATE ABOUT GERMANY AND BERLIN, IN WHICH ALL WOULD HOLD TO THEIR FORMAL LEGAL POSITIONS. SUCH POINTLESS POLEMICS SHOULD BE AVOIDED AT ALL COST. ALL PRESENT AT THE MEETING, EXCEPT EDELSTAM, AGREED EMPHATICALLY WITH US.

8. BRUNNER THEN WENT ON TO SAY THAT, IF FOUR POWERS CANNOT BEGIN REAL NEGOTIATIONS IN TWO-THREE WEEKS, NEUTRALS WOULD FEEL OBLIGED TO TABLE A COUNTERDRAFT IN THE CSCE SUBCOMMITTEE. US REP RESPONDED THAT WE HAD NO MANDATE TO NEGOTIATE AND THAT OUR INSTRUCTIONS WERE TO SUPPORT QRR TEXT AS IT STANDS. HOWEVER, EVEN IF A NEGOTIATING PROCESS IS INITIATED, WE THOUGHT A TWO-THREE WEEK DEADLINE SOMEWHAT ARTIFICIAL. WHEN PRINCIPLES SUBCOMMITTEE MOVES TO 10TH PRINCIPLE, WE COULD HAVE A GENTLEMAN'S AGREEMENT THAT BLANK SPACE WOULD BE LEFT FOR THE QRR TEXT. BRUNNER AND OTHERS CONCURRED BUT SAID THAT NEGOTIATIONS ON THE TEXT SHOULD BEGIN IMMEDIATELY AFTER THE EASTER RECESS, AT THE LATEST.

9. IN SUBSEQUENT BONN GROUP DELEGATION LUNCH SAME DAY, ALL FELT THAT FOUR POWERS SHOULD NOT BE JOSTLED INTO EARLY NEGOTIATIONS AND SHOULD NOT GIVE IMPRESSION THAT THEY ARE ALARMED ABOUT NEUTRAL OPPOSITION. IT WAS GENERALLY AGREED THAT THE YUGOSLAV AND ROMANIAN DELEGATIONS ARE OUR MAIN PROBLEM. SWISS AND SWEDES WERE OUTSPOKEN ABOUT THE ISSUE. HOWEVER, THIS PROBABLY RELATES TO THE ACTIVIST PROCLIVITIES OF BRUNNER AND EDELSTAM RATHER THAN TO DEEPLY FELT POLITICAL INTERESTS

OF THEIR GOVERNMENTS. CYPRIOTS HAVE REAL PROBLEMS WITH TEXT BUT ARE IN A VERY WEAK POSITION AND PROBABLYTAET AFFORD TO PLAY A VERY CONSPICUOUS ROLE. AUSTRIANS, FINNS AND OTHERS WERE MAKING POINTS FOR THE RECORD BUT WOULD IN THE END GO ALONG WITH ANYTHING THE MORE ACTIVIST DELEGATIONS COULD ACCEPT.

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10. CONSENSUS AMONG BONN GROUP DELEGATIONS WAS THAT THE FOUR POWERS SHOULD HOLD FOR THE TIME BEING TO THE PRESENT TEXT AND CONTINUE DIALOGUE WITH THE NEUTRALS AND OTHERS. ALL AGREED THAT QRR LANGUAGE COULD BE PLACED IN 10TH PRINCIPLE (FULFILLMENT IN GOOD FAITH OF OBLIGATIONS UNDER INTERNATIONAL LAW) RATHER THAN FINAL CLAUSES, IF THAT MADE IT LESS OBJECTION-ABLE TO THE NEUTRALS. FRENCH REP AGREED TO CONVEY THIS WESTERN POSITION TO MENDELEVICH, AND PERHAPS THEREAFTER TO NEUTRALS.

11. IN DECIDING US APPROACH TO THIS ISSUE, DEPARTMENT SHOULD RECOGNIZE INTENSITY OF YUGOSLAV AND ROMANIAN CONCERNS AND BROAD SUPPORT THEY WILL HAVE AMONG NEUTRALS AND NONALIGNED--AND INDEED FROM A NUMBER OF NATO DELEGATIONS. MOST OF LATTER HAVE, TO OUR KNOWLEDGE, REMAINED DISCREETLY SILENT ON THIS MATTER. HOWEVER, IT IS WIDELY ALLEGED HERE THAT INDIVIDUAL MEMBERS OF FRG DELEGATION HAVE NOT RPT NOT HESITATED TO REVEAL THEIR DISSATISFACTION WITH THE QRR LANGUAGE IN CORRIDOR DISCUSSIONS WITH BOTH NATO AND NEUTRAL DELEGATIONS. NEVERTHELESS, FORMAL FRG DELEGATION POSITION IS TO SUPPORT THE QRR TEXT AS IT STANDS. MEANWHILE, THE ANXIETIES OF NEUTRALS AND OTHERS HAVE BEEN EXACERBATED BY MENDELEVICH'S HEAVY-HANDED ADVOCACY OF THE QRR SENTENCE.

12. AGAINST THIS BACKGROUND, IT UNREALISTIC TO SUPPOSE THAT PRESENT LANGUAGE CAN BE AGREED WITHOUT AMENDMENT. TO OUR KNOWLEDGE, NO RPT NO TEXT DEVELOPED INITIALLY AMONG A SMALL GROUP OF DELEGATIONS HAS EVER BEEN ACCEPTED BY THE FULL CSCE--EITHER IN STAGE II OR DURING THE HELSINKI MPT. THE DYNAMICS OF THIS CONFERENCE MILITATE POWERFULLY AGAINST GENERAL ACCEPTANCE, WITHOUT AMENDMENT, OF A "MINORITY" TEXT--EVEN IF MINORITY INCLUDES ALL OF LARGER POWERS REPRESENTED HERE. AT SAME TIME, ALL CONCERNED RECOGNIZE THE SERIOUS NATURE OF OUR PROBLEM, WANT TO HELP MEET IT, AND ARE ANXIOUS TO AVOID AN OPEN SQUABBLE OVER THIS QUESTION. WE CONTINUE TO BELIEVE, THEREFORE, THAT THE DEPARTMENT SHOULD GIVE US AUTHORITY TO ACCEPT THE AMENDMENTS PROPOSED IN REF A.

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13. ON TIMING, WE ARE IN NO PARTICULAR HURRY TO MOVE, BUT BELIEVE THE ATMOSPHERE COULD SOUR IF THE FOUR POWERS ARE NOT READY TO BEGIN NEGOTIATIONS ON THE TEXT IMMEDIATELY AFTER THE EASTER BREAK. PERHAPS AN EARLIER SIGNAL OF GENERAL WILLINGNESS TO BARGAIN MIGHT ALSO BE USEFUL.

14. IF WE ARE TO HAVE AN AMENDED TEXT BY THE END OF THE EASTER BREAK (I.E., EARLY APRIL, WE SHOULD BEGIN IN THE NEXT WEEK OR TWO TO GET AGREEMENT OF BONN GROUP DELEGATIONS IN GENEVA, AND THEN OF THE SOVIETS, TO NEW LANGUAGE. THIS MAY BE A LENGTHY PROCESS, GIVEN CURRENT DISINCLINATION OF FRENCH AND SOVIETS TO CONSIDER ANY CHANGES AT ALL. WE THEREFORE HOPE DEPARTMENT CAN GIVE US AUTHORITY, IN THE RELATIVELY NEAR FUTURE, TO ACCEPT TEXTUAL MODIFICATIONS PROPOSED IN REF A AS BASIS FOR FURTHER DISCUSSIONS HERE WITH BONN GROUP DELS AND SOVIETS, LOOKING TOWARD DEVELOPMENT OF TEXT THAT PROTECTS FULLY OUR POSITION ON GERMANY AND BERLIN, IS ACCEPTABLE TO FIVE POWERS MOST DIRECTLY CONCERNED, AND GOES SOME WAY TOWARD CONCERNS OF NEUTRALS, ROMANIANS AND SMALLER NATO COUNTRIES. DALE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLICIES, BERLIN QUADRIpartite MATTERS, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Draft Date: 26 FEB 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975GENEVA01324
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D750068-0097
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750212/aaaaakdr.tel
Line Count: 361
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 75 GENEVA 1020, 75 STATE 41783
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 04 APR 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <04 APR 2003 by BoyleJA>; APPROVED <07 APR 2003 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CSCE POLICY: QUADRIpartite RIGHTS ISSUE
TAGS: PFOR, XG, CSCE
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006